

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Emergency Rules

■ COVID-19 PRECAUTIONS

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to Control of Communicable Diseases Code (77 IAC 690; 44 Ill Reg 13807) effective 8/7/20 for a maximum of 150 days. This emergency rule places the following requirements upon businesses, services, facilities, organizations, and schools to control the spread of COVID-19, but does not supersede any provisions of an Executive Order or the authority of local entities to enforce local rules, orders or ordinances.

Face Coverings

— Any individual over age 2 who is medically able to tolerate a mask or cloth face covering shall be required to cover his or her nose and mouth with a mask or face covering when in a public place (either indoors or outdoors)

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

and unable to maintain at least a 6-foot social distance from others. All mandates to wear masks or face coverings apply only to these individuals, in situations where social distancing cannot be maintained.

— Any business, service, facility or organization (BSFO) open to the public or that has on-site employees shall require its

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Proposed Rulemakings

■ MEDICAL CANNABIS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 IAC 1290; 44 Ill Reg 13509) implementing Public Act 101-363. The rulemaking removes the "Pilot" designation from the title of the Part and updates various provisions for this program. It permits returns and refunds for damaged or inadequate products and requires that 20% of points awarded to applicants for new dispensing authorizations be based on the applicant's social equity status (as a person, or member of a family or community, disproportionately impacted by enforcement of past cannabis laws). For social equity applicants that meet certain

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

■ TELEHEALTH & DRUGS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Medical Payment (89 IAC 140; 44 Ill Reg 4288 and 5560) effective 8/7/20, combining two separately proposed rulemakings and replacing an emergency amendment effective 3/20/20 (44 Ill Reg 5745). This rulemaking authorizes medical assistance coverage of all medically necessary and clinically appropriate telehealth services for dates of service on and after 3/9/20 until HFS determines that any or all of these services are no longer necessary based on federal or State disaster declarations, Executive Orders of the Governor, termination of disaster-related flexibilities granted by federal agencies, or feedback from

stakeholders. (These provisions have been changed since 1st Notice; originally, authorization was only for the duration of the COVID-19 Gubernatorial Disaster Proclamations.) Telehealth services that utilize an interactive telecommunication system or other communication system that allows the patient and provider to exchange health information that would otherwise be collected in a face to face encounter are eligible for medical assistance reimbursement. Also for the duration of a public health emergency, HFS will cover services provided by federally qualified health centers, rural health clinics and encounter rate clinics that do not ordinarily meet its definition of telehealth services, including virtual check-ins and behavioral health services provided via telephone or video

and e-visits via online patient portals. The rulemaking also implements Public Act 101-62, which establishes a Drug and Therapeutics Advisory Board to determine which drug products will be included on HFS' Preferred Drug List (PDL) and which non-PDL drug products will require prior approval in order to be covered under medical assistance. The board will meet at least once per calendar quarter and will include voting members appointed by the Governor for 3-year terms, with non-voting clinicians serving as advisors. Board recommendations are non-binding. When a new drug product is approved by the federal Food and Drug Administration, it will require prior approval until HFS determines otherwise. Drug

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employees, customers, and other individuals to wear a face covering over the nose and mouth when on the premises.

— BSFOs that offer food or beverages for in-person consumption may permit employees and customers to remove face coverings while eating or drinking, but must require face coverings at all other times.

— BSFOs that take "reasonable efforts" to require patrons and employees to wear face coverings shall be deemed in compliance with these rules. For retail businesses, reasonable efforts include, but are not limited to:

posting signage stating that face coverings are required; providing masks/face coverings to customers; giving verbal warnings to customers to wear face coverings while on the premises; or requesting that customers leave if not wearing a face covering.

— All K-12 schools (public and nonpublic), higher education institutions, vocational programs, and day care programs (both DCFS licensed and license-exempt) shall require students, employees, and other individuals to wear a face covering when on the premises. Schools and day cares may permit face coverings to be removed while eating and drinking, while outdoors and

maintaining social distance, and while playing a musical instrument if necessary. Staff may use a face shield when necessary to allow facial visualization during instruction and communication.

Gatherings

Gatherings of more than 50 people, or more than 50% of maximum occupancy in an indoor space with a maximum occupancy of 100 or fewer people as determined by a local authority, are prohibited unless exempted by law or Executive Order. Public and

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Proposed Rulemakings

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financial and ownership criteria, DFPR will waive 50% of nonrefundable authorization application fees, fees associated with purchasing a license, and any required surety bond. The point system for scoring applications is also revised to include points for an environmental plan, qualification as an Illinois owner or veteran, and for a diversity plan. Principal officers of dispensing organizations cannot have ownership or financial interest in more than 5 cannabis businesses registered or authorized under the Compassionate Use of Medical Cannabis Program Act. A registration applicant has 180 days from receipt of authorization to choose a suitable physical

location, while the dispensing organization has 360 days from receipt of authorization to become operational. Other provisions include procedures for breaking a tied point score between two or more applicants for an available authorization; prorated renewal fees for registrations renewed prior to 3/1/21 (\$2,000 for each month between the renewal and March 2021); an annual renewal fee of \$50,000 (currently \$25,000) for registrations renewed on or after 3/1/21 and a new late renewal fee of \$5,000; and updated security and inventory tracking requirements, disciplinary provisions, and agent responsibilities. Dispensing organizations that participate in the medical cannabis program are affected by this rulemaking.

Questions/requests for copies/ comments through 10/5/20: Craig Cellini, DFPR, 320 W. Washington St., 2nd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

SNAP BENEFITS

The DEPARTMENT OF HUMAN SERVICES proposed an amendment to Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 44 Ill Reg 13638) removing provisions that allowed households that qualified for expedited application processing to receive SNAP benefits for up to 2 months even if DHS was unable to contact them for an interview. If an applicant fails

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nonpublic K-12 schools must limit the number of people in one indoor space to 50 or fewer.

Enforcement

Enforcing entities include local boards of health, health authorities and officers, police officers, sheriffs, and other officers/employees of the State or any locality, including officers/employees of DPH and certified local health departments. Only BSFOs, *not individuals*, are responsible for compliance. No individual shall be held responsible for compliance or penalized for noncompliance even if that

individual is an owner, officer, principal or employee of a BSFO. Enforcement actions shall be taken as follows:

— First, a BSFO shall be given a written notice by the enforcing entity and a reasonable opportunity to take prompt action to comply. “Reasonable opportunity” will be determined by the enforcing entity based on various factors, including the nature of the activity taking place and whether it is indoors or outdoors; the size of the building or facility and crowd occupying that area; the degree of public health risk; and the number of individuals at risk of exposure. “Prompt action” may include but is not limited to distributing face

coverings to customers and employees, or reducing the number of persons on-site by limiting entry until occupancy is below the 50-person/50% limit. The enforcing entity may remain on the premises and observe until compliance is achieved, or return at a later time to verify that compliance was achieved.

— If the enforcing entity concludes that the BSFO did not comply within a reasonable time after receiving written notice, it may issue a written order to disperse all or some of the persons on the premises until compliance is achieved.

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manufacturers shall provide, in writing, all relevant drug product information to HFS and the board in its entirety. Health providers enrolled in the Medical Assistance Program are affected by this emergency rule.

Questions/requests for copies: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

■ CASINOS

The ILLINOIS GAMING BOARD adopted amendments to Riverboat and Casino Gambling (86 IAC 3000; 44 Ill Reg 5974 and 6205) effective 8/7/20, combining two separately proposed amendments and replacing an emergency amendment (44 Ill Reg 6426) effective 4/7/20. The rulemaking requires organization gaming facilities (those owned by and located at horse racing tracks) to maintain their gaming facilities separately from inter-track wagering and to restrict gaming facilities to patrons 21 years of age or older. A physical barrier may be placed between these facilities if they are located in the same structure, but patrons must have direct access between both facilities. No direct access to an organization gaming facility may be permitted without also requiring entry to the associated racetrack, and all entries and exits (whether from inside or outside) shall be recorded at turnstiles. Plans to remodel, expand or otherwise modify organization gaming

facilities must be submitted to the IGB Administrator for approval prior to construction and must include clear and legible diagrams, plans for surveillance and security, and certification of compliance with applicable building codes. The Administrator may deny approval if he or she determines that the project alters the facility in such a way that it makes live racing an “ancillary activity” to gaming. If a project is rejected by the Administrator for this reason, the organization gaming licensee has 14 days to appeal to the decision to the Board. Owner licensees or organization gaming licensees may conduct gaming at temporary facilities for up to 24 months (can be extended an additional 12 months for good cause shown by the licensee) while a permanent facility is under construction. (A definition of “good cause” has been added since 1st Notice.) Plans for temporary facilities must be submitted directly to the Board, which may withdraw approval of the temporary facility at any time if the Board determines that continued operation is injurious to the health, safety, or welfare of the public or is a risk to the integrity or security of gaming. Additionally, this rulemaking implements a PA that expands the contracting goals for casino owner’s licenses to include veteran-owned businesses as well as businesses owned by women, minorities and persons with disabilities. A veteran-owned business is defined as a business with at least 51% ownership, as well as control of management and daily operations, by one or more

veterans. Benchmark contracting goals are now 11% to minority owned businesses, 7% to women-owned businesses, 3% to veteran owned businesses, and 2% to businesses owned by persons with disabilities. Beginning in 2021, the annual report that licensees must file concerning their utilization of minority, female and disability-owned businesses shall also include veteran owned businesses. Small businesses owned by veterans may be affected by this rulemaking if their services are utilized by casino owner licensees.

Questions/requests for copies: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60602, fax 312/814-7253, IGB.RuleComments@igb.illinois.gov

■ TAX AMNESTY

The DEPARTMENT OF REVENUE adopted amendments to the Part titled Amnesty Regulations (86 IAC 520; 43 Ill Reg 8677) effective 8/6/20, implementing Public Act 101-9, a short-term tax amnesty program that was in effect from Oct. 1 through Nov. 15, 2019. Eligible Illinois income tax liabilities based on income earned or received in calendar years 2011 through 2017, and other eligible tax liabilities incurred from 7/1/11 through 6/30/18, can be paid without penalty during the amnesty period. The rulemaking abolishes the “200% sanction” that doubles rates of penalty and interest on certain tax

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— If the BSFO refuses to comply with the order to disperse, that BSFO will be subject to penalties set in Section 8.1 of the Department of Public Health Act (which makes refusal to obey a DPH rule or order a Class A misdemeanor for which up to one year imprisonment and up to \$2,500 in fines may be imposed). However, no individual may be subject to these penalties. A BSFO is also subject to these penalties if it engages in repeated or continued violations after receiving 2 or more written notices of noncompliance or one or more written orders to disperse.

— When determining whether a BSFO has failed to comply with these rules, enforcing entities shall consider all reasonable compliance efforts that the BSFO has taken.

Schools/Day Cares

Enforcing entities may also give written notices of noncompliance, and reasonable opportunity to remedy the situation, to any school or day care that does not comply with these rules. This notice shall also be given to the certified local health department, board of health or health authority, and to the local school district (K-12 public schools), the Illinois Community College Board, the Board of Higher Education, or to the parent institution with which a nonpublic school, college or university is affiliated, as applicable. Upon receipt of this notice, the school or day care must notify parents in

writing that a notice of noncompliance has been issued and must disclose to parents its plan to comply. The certified local health department, board of health or health authority is authorized to take action to enforce school/day care compliance; DPH may take this action if the local health authority fails to do so.

Case Investigations

DPH and local health authorities may investigate confirmed cases, suspect cases or carriers of COVID-19 in a public or private place in order to verify existence of the disease, locate and evaluate contacts of cases, identify those at risk of infection, and determine necessary control measures. These investigations may include entering a place of employment to examine conditions that are “relevant, pertinent and necessary” to the investigation. When 2 or more suspected COVID-19 cases occur in any BSFO, institution, school or day care, the owner or person in charge of the establishment shall cooperate with public health authorities in the investigation.

Closures

DPH or a certified local health department may order the closure of a BSFO, school or day care when an outbreak of COVID-19 occurs. An outbreak among school or day care students or staff may constitute an emergency that warrants shifting from in-person to remote instruction.

Those affected by this emergency rule include businesses, services, facilities, organizations, public and private schools, day cares, local health departments and local law enforcement.

Questions/requests for copies:
Erin Conley, DPH, 535 W. Jefferson St, 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

DRIVER'S LICENSES

The SECRETARY OF STATE adopted an emergency amendment to Issuance of Licenses (92 IAC 1030; 44 Ill Reg 13823) effective 8/7/20, amending a previous emergency rule effective 6/30/20 (44 Ill Reg 11898) for the remainder of its 150 day term. The emergency amendment adds 12 months to the expiration dates of all driver's licenses issued to Illinois residents who were age 75 or older as of 1/1/20, or who will reach age 75 during 2020. Additionally, expiration dates for all other licenses, identification cards, instruction permits and other permits have been extended for 100 days (previously 95 days) after the expiration of Gubernatorial Disaster Proclamations related to the COVID-19 pandemic. This extension applies to licenses, permits and ID cards that expire on or before the last day of the proclaimed disaster or in the following 60 days.

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liabilities for taxpayers who could have qualified for the amnesty program but failed to participate. Additionally, tax liabilities that are in the process of being reviewed by the Illinois Independent Tax Tribunal or are the subject of Fast Track Resolution Program audits during the amnesty period will be eligible for amnesty under certain conditions. If DOR ultimately determines that a deficiency for a particular tax period was greater than the amount the taxpayer paid during the amnesty period, the 200% sanction will no longer be imposed on the unpaid amount. Those affected by this rulemaking include individuals and businesses with unpaid income tax, sales tax, use tax or other tax liabilities from the eligible tax periods.

Questions/requests for copies: Brian Fliflet, DOR, 101 W. Jefferson St., MC5-500, Springfield IL 62794, 217/782-2844.

■ SOS BUSINESS SERVICES

The SECRETARY OF STATE adopted amendments to the Part titled Uniform Commercial Code (14 IAC 180; 44 Ill Reg 5720), effective 8/4/20, replacing an emergency amendment effective 3/20/20 (44 Ill Reg 5809). This rulemaking extends the filing deadlines for applicable Uniform Commercial Code documents, federal tax liens, and other UCC-related materials and suspends late filing fees for the duration of the COVID-19 Disaster Proclamations and for 90 days (changed since 1st Notice from 30 days) after the proclamations

expire. Small businesses and non-profit organizations required to file documents with SOS are affected.

STATE OFFICIALS

SOS also adopted an amendment to Statements of Economic Interests (2 IAC 565; 44 Ill Reg 5708) 5782) effective 8/4/20, replacing an emergency rule effective 3/20/20 (44 Ill Reg 5782). The rulemaking extends the deadline for filing statements of economic interest required under the Illinois Governmental Ethics Act until 30 days after the expiration of the COVID-19 Disaster Proclamations and any subsequent extensions.

Questions/requests for copies of the 2 SOS rulemakings: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, pwright@ilsos.gov

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Questions/requests for copies: Brenda Glahn, SOS, 298 Howlett Bldg., Springfield IL 62756, bglahn@sos.gov

■ LOCAL CURE PROGRAM

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted emergency amendments to an emergency rule titled Local Coronavirus Urgent Remediation Emergency (or Local CURE) Support Program (14 IAC 700; 44 Ill Reg 13761) effective 8/10/20, for the remainder of the 150-day term

of an earlier emergency rule effective 7/2/20 (44 Ill Reg 11824). The emergency amendments clarify and expand on rules implementing the CURE Program in accordance with PA 101-636 and add provisions to fund economic support payments made by local governments to businesses whose activity was interrupted by the COVID-19 pandemic. Economic support payments grants to local governments shall be provided on a reimbursement basis only, must follow all processes required by federal grant rules and the Grant Accountability and Transparency Act, and must cover costs incurred

by qualifying businesses between 3/1 and 12/30/20. DCEO will post one or more Notices of Funding Opportunity when funds for economic support payment grants are available; the emergency amendment includes application procedures and criteria for local governments that may wish to apply for these grants. Additionally, other CURE funds allotted to local governments (to cover their own costs related to the COVID-19 public health emergency) that have not been claimed by 12/1/20 (originally, 11/1/20) may be

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to appear for or participate in the scheduled interview, the application will be processed on the regular schedule instead of the expedited schedule. DHS states that this amendment has been prompted by the expiration of a federal waiver.

Questions/requests for copies/ comments through 10/5/20: Tracie Drew, DHS, 100 S. Grand

Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

MEDICAL PAYMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Specialized Health Care Delivery Systems (89 IAC 146; 44 Ill Reg 13629) implementing PA 101-10, which establishes new reimbursement rates for children's community-

based health care centers. Services provided by these centers will be reimbursed at the maximum allowable rate on the HFS fee schedule for these centers (currently, \$683 per day or \$17 per hour).

Questions/requests for copies/ comments through 10/5/20: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

Emergency Rules

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redirected to other eligible local governments still in need of funds. Requests for reimbursement must be submitted to DCEO or its third party program administrator no later than 1/31/21. Funds not claimed as of 2/1/21 will be redirected to other local governments that have expressed remaining needs; these reimbursement requests must be submitted no later than 2/28/21. All reimbursement requests will be processed and vouchers issued by 3/31/21. Deadlines for reimbursement requests will be extended if the federal CARES Act or U.S. Treasury Department guidelines are amended to allow for later deadlines. Those affected by this emergency amendment include local governments and businesses to which they have provided or will provide pandemic-related economic assistance.

Questions/requests for copies: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, 2 1 7 / 5 5 7 - 1 8 2 0 , jolene.clarke@illinois.gov

■ CHILD CARE

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to Child Care (89 IAC 50; 44 Ill Reg 13789) effective 8/7/20 for a maximum of 150 days. An identical proposed amendment appears in this week's Illinois Register at 44 Ill Reg 13636. The emergency and proposed rulemakings update income eligibility thresholds and monthly co-payments for the Child Care Assistance Program to maintain income eligibility at 200% of the Federal Poverty Level and to maintain parent co-payments at no more than 7% of gross family income. Child care homes and facilities with CCAP client families are affected.

Questions/requests for copies/ comments on the proposed rulemaking through 10/5/20: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

STATE PROPERTY

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted an emergency amendment to the Part titled Acquisition, Management and Disposal of Real Property (44 IAC 5000; 44 Ill Reg 13754) effective 8/10/20 for a maximum of 150 days. The emergency rule postpones the due date for State agencies to submit their annual plans for utilization of leased and owned property from July 30 to September 1, 2020.

Questions/requests for copies: Sean Coombe, CMS, 720 Stratton Bldg., Springfield IL 62706, 217/557-3761, sean.coombe@illinois.gov

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the September 15, 2020 JCAR meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

IL GAMING BOARD

Video Gaming (General) (11 IAC 1800; 44 Ill Reg 10061) proposed 6/12/20

DEPT OF REVENUE

Income Tax (86 IAC 100; 44 Ill Reg 4544) proposed 3/20/20

DEPT OF CENTRAL MANAGEMENT SERVICES

Extensions of Jurisdiction (80 IAC 305; 43 Ill Reg 11808) proposed 10/18/19

OFFICE OF THE ATTORNEY GENERAL

Attorney General's Procurement (44 IAC 1300; 44 Ill Reg 10831) proposed 6/26/20

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*

Representative Tom Demmer

Senator John F. Curran

Representative Michael Halpin

Senator Kimberly Lightford

Representative Frances Ann Hurley

Senator Tony Muñoz

Representative Steven Reick

Senator Sue Rezin

Representative André Thapedi

Senator Paul Schimpf

Representative Keith Wheeler, *co-chair*

**Vicki Thomas
Executive Director**